

IN THE SUPREME COURT OF THE STATE OF ALASKA

In the Matter of the)	
)	Supreme Ct. No. S-_____
2021 Redistricting Plan.)	
)	Superior Court Case Nos.
)	3AN-21-08869 CI
_____)	1JU-21-00944 CI

STATEMENT OF POINTS ON APPEAL

[R. App. P. 204(e)]

The Municipality of Skagway Borough and Brad Ryan (“Appellants”), through their counsel, Brena, Bell & Walker, P.C., pursuant to Alaska Rule of Appellate Procedure 216.5(b) and 204(e), hereby file their Statement of Points on Appeal with respect to their appeal to the Alaska Supreme Court from the Superior Court Finding of Facts and Conclusions of Law and Order (“FFCL”), issued February 15, 2022. Appellants have been advised by the Clerk of Appellate Courts that a Petition for Review should be filed on or before Tuesday February 22, 2022. However, out of an abundance of caution Appellants file their Statement of Points on Appeal. Appellants intend to rely on the following points in their appeal:

1. The trial court erred in failing to remand the 2021 Proclamation Plan back to the Board for failure to satisfy constitutional redistricting criteria.
2. The trial court erred in not requiring the Board to consistently apply redistricting criteria including those set forth in article VI, section 6.
3. The trial court erred in failing to remand Districts 3 and 4 back to the Board for failure to satisfy constitutional redistricting criteria.

**BRENA, BELL &
WALKER, P.C.**
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907) 258-2000
Fax: (907) 258-2001
www.brenalaw.com

4. The trial court erred in finding that Districts 3 and 4 contain relatively integrated socio-economic areas as required by article VI, section 6 of the Alaska Constitution.

5. The trial court erred in concluding that “the Board did not violate Article VI, Section 6 of the Alaska Constitution by districting Skagway with Mendenhall Valley instead of downtown Juneau regardless of socio-economic evidence to the contrary.”¹

6. The trial court erred in not requiring the Board to maximize relative socio-economic integration in conjunction with other constitutional requirements.

7. The trial court erred by misapplying *Kenai Peninsula Borough* as support for the Court’s determination that Skagway and Mendenhall Valley are sufficiently socio-economically integrated.²

8. The trial court erred in concluding that failing to keep Mendenhall Valley intact has no constitutional ramifications.³

9. The trial court erred by misapplying *In re 2001 Redistricting Cases* as support for the Court’s determination that neighborhood boundaries are irrelevant.⁴

10. The trial court erred in declining to address Skagway’s equal protection argument.⁵

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Fax: (907) 258-2001
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¹ FFCL at 121.

² FFCL at 122-23.

³ FFCL at 123 n.752.

⁴ FFCL at 123.

⁵ FFCL at 122 n.736.

11. The trial court erred in concluding that the Board sufficiently followed the *Hickel* process despite finding that “transcripts and videos of public Board meetings make it abundantly clear that Board Members were actively considering VRA-related issues since the beginning of the process.”⁶

12. The trial court erred in concluding that the Board complied with the constitutional deadlines of article VI, section 10.⁷

13. The trial court erred in concluding that Open Meetings Act (“OMA”) violations did not warrant voiding any specific action because the Board demonstrated a good faith effort to comply with the OMA.⁸

14. The trial court erred in concluding that the Board’s violations of the OMA did not result in a waiver of otherwise privileged communications.⁹

⁶ FFCL at 128.

⁷ FFCL at 149-152.

⁸ FFCL at 155-162.

⁹ FFCL at 167-69.

RESPECTFULLY SUBMITTED this 17th day of February, 2022.

BRENA, BELL & WALKER, P.C.
Counsel for Appellant MUNICIPALITY OF
SKAGWAY BOROUGH and BRAD RYAN

By //s// Robin O. Brena

Robin O. Brena, AK Bar No. 8410089
Jake W. Staser, AK Bar No. 1111089
Laura S. Gould, AK Bar No. 0310042
Jon S. Wakeland, AK Bar No. 0911066
810 N Street, Suite 100
Anchorage, Alaska 99501
Phone: (907) 258-2000
Fax (907) 258-2001
Email: rbrena@brenalaw.com
jstaser@brenalaw.com
lgould@brenalaw.com
jwakeland@brenalaw.com

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WALKER, P.C.**
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In the Matter of the)	
)	Supreme Ct. No. S-_____
)	
2021 Redistricting Plan.)	Superior Court Case Nos.
)	3AN-21-08869 CI
_____)	1JU-21-00944 CI

NOTICE OF APPEAL

The Municipality of Skagway Borough and Brad Ryan, (“Appellants”), through their counsel, Brena, Bell & Walker, P.C., hereby give notice, Alaska Rule of Appellate Procedure 216.5(b) and 204(e), of their appeal to the Supreme Court of the State of Alaska from the Findings of Fact and Conclusions of Law and Order issued by the Superior Court on February 15, 2022, in the above-referenced consolidated case. Appellants have been advised by the Clerk of Appellate Courts that a Petition for Review should be filed on or before Tuesday, February 22, 2022. However, out of an abundance of caution Appellants file their Notice of Appeal.

This Notice of Appeal is accompanied by:

1. Statement of Points on Appeal;
2. Docketing Statement with attached order from which the appeal is taken;
3. Filing fee in the amount of \$250; and
4. Certificate of Service.

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WALKER, P.C.**
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Anchorage, AK 99501
Phone: (907) 258-2000
Fax: (907) 258-2001
www.brenalaw.com

RESPECTFULLY SUBMITTED this 17th day of February, 2022.

BRENA, BELL & WALKER, P.C.
Counsel for Appellant MUNICIPALITY OF
SKAGWAY BOROUGH and BRAD RYAN

By //s// Robin O. Brena

Robin O. Brena, AK Bar No. 8410089
Jake W. Staser, AK Bar No. 1111089
Laura S. Gould, AK Bar No. 0310042
Jon S. Wakeland, AK Bar No. 0911066
810 N Street, Suite 100
Anchorage, Alaska 99501
Phone: (907) 258-2000
Fax (907) 258-2001
Email: rbrena@brenalaw.com
jstaser@brenalaw.com
lgould@brenalaw.com
jwakeland@brenalaw.com

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WALKER, P.C.**
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907) 258-2000
Fax: (907) 258-2001
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IN THE SUPREME COURT OF THE STATE OF ALASKA

DOCKETING STATEMENT A

For Use in Appeals Under Appellate Rule 204 and 218

INSTRUCTIONS FOR MULTIPLE PARTIES OR ATTORNEYS: If there are multiple parties or attorneys, repeat the appropriate box. This may be done on a separate page. Please clearly indicate which attorney represents which party.

(for court system use)

No. _____

1. TYPE OF APPEAL

a. <input checked="" type="checkbox"/> General Civil Rule Appeal (App. Rule 204)	b. <input type="checkbox"/> Appeal in Child Custody Case (App. Rule 218)
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2. PARTY FILING APPEAL (Appellant)

a. Name Municipality of Skagway & Brad Ryan	b. Status in the Trial Court <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
c. Party Mailing Address (not attorney's address) P.O. Box 415	<input type="checkbox"/> Other. Specify: _____
City State Zip Code Skagway AK 99840	d. Telephone 907-983-2297

3. APPELLANT'S ATTORNEY

a. Name Robin Brena	b. Bar Number 8410089	
c. Attorney Mailing Address 810 N Street, Ste. 100	d. Telephone 907-258-2000	e. Fax 907-258-2001
City State Zip Code Anchorage AK 99501	f. Firm/Agency Brena, Bell & Walker, P.C.	

4. PARTY APPEALED AGAINST (Appellee) [All parties in the trial court when the final order/judgment were entered are appellees and must be listed if they did not file a notice of appeal. AR 204(b)[1] & (g).]

a. Name See attached list of parties	b. Status in the Trial Court <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant
c. Party Mailing Address	<input type="checkbox"/> Other. Specify: _____
City State Zip Code	d. Telephone

5. APPELLEE'S ATTORNEY

a. Name See attached list of parties	b. Bar Number	
c. Attorney Mailing Address	d. Telephone	e. Fax
City State Zip Code	f. Firm/Agency	

6. SUPERIOR COURT PROCEEDING

a. Case No. 3AN-21-08869 CI			b. Superior Court Judge Judge Thomas Matthews			c. Date Judgment Distributed 02/15/2022		
d. Post-Judgment Motions: List all post-judgment motions that affect time for filing appeal. See Appellate Rule 204(a)(3).								
DATE OF FILING			Type of Post-Judgment Motion			DATE ORDER DISTRIBUTED		
Month	Day	Year				Month	Day	Year

7. CONSTITUTIONAL ISSUES

Is the constitutionality of a state statute or regulation at issue in this appeal?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, cite statute or regulation: _____		

8. FINALITY OF JUDGMENT OR ORDER BEING APPEALED

- a. ☐ The judgment or order being appealed is final and disposes of **ALL** claims by **ALL** parties. (The judgment or order is final under City and Borough of Juneau v. Thiboudeau 595 P.2d 626 (AK 1979).)
- b. ☐ The judgment or order being appealed does not dispose of all claims by all parties but is final under Civil Rule 54(b). (The trial court's Civil Rule 54(b) order must be attached.)
- c. ☒ The judgment or order being appealed is not final. The authority for this appeal is Appellate Rule 216.5

9. ATTACHMENTS

The following items are submitted with this form (except that cross-appellants need not submit item a.):

- a. ☒ A copy of the final order or judgment from which the appeal is taken.
- b. ☒ A statement of points on appeal.
- c. ☒ A \$250 filing fee or ☐ a motion to appeal at public expense (financial statement affidavit form must be included).
- ☐ a motion to waive filing fee (if basis for motion is inability to pay, financial statement affidavit form must be included).
- ☐ an application for exemption from filing fee under AS 9.19.010.
- ☐ no filing fee is required because appellant is ☐ represented by court-appointed counsel, and AS 9.19.010 does not apply.
- ☐ the state or an agency thereof.
- ☐ an employee appealing denial of benefits under AS 23.20 (Employment Security Act)
- d. A \$750 cost bond or deposit or
- ☐ a copy of a superior court order approving appellant's supersedeas bond or a copy of appellant's motion to the superior court for approval of a supersedeas bond.
- ☐ a motion to waive cost bond (if basis for motion is inability to pay, financial statement affidavit form must be included).
- ☐ a motion to appeal at public expense (financial statement affidavit form must be included).
- ☒ no cost bond is required because appellant is ☐ represented by court-appointed counsel.
- ☒ a state agency, municipality, or state or municipal officer.
- ☐ an employee appealing denial of compensation by Alaska Workers' Compensation Board or denial of benefits under AS 23.20 (Employment Security Act).
- e. Designation of transcript ☐ submitted ☐ not submitted (no transcript being requested) ☐ motion to extend submitted

Date

Signature of Appellant or Appellant's Attorney

CERTIFICATE OF SERVICE

I certify that on _____ a copy of the notice of appeal, this docketing statement, and all attachments (except filing fee and cost bond) were

mailed delivered to **All Parties** (listed)

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See attached certificate of service

Signature: _____

FILING INSTRUCTIONS

File original docketing statement and notice of appeal with all attachments listed in #9 and ONE copy of ALL except filing fee and cost bond.

Attachment to Docketing Statement A

**List of Parties and Counsel in Superior Court Case
3AN-21-08869 CI**

APPELLANT	
1. Party	Counsel
Municipality of Skagway Borough and Brad Ryan	Robin O. Brena (ABA #8410089) Jake W. Staser (ABA #1111089) Laura S. Gould (ABA #0310042) Jon S. Wakeland (ABA #0911066) Brena, Bell & Walker, P.C. 810 N Street, Suite 100 Anchorage, AK 99501 Phone: (907) 258-2000 Fax: (907) 258-2001 Email: rbrena@brenalaw.com jstaser@brenalaw.com lgould@brenalaw.com jwakeland@brenalaw.com
APPELLEE	
2. Party	Attorney
Alaska Redistricting Board	Matt Singer (ABA #9911072) Lee Baxter (ABA #1510085) Kayla J. F. Tanner (ABA #2010092) Schwabe, Williamson & Wyatt 420 L Street, Suite 400 Anchorage, AK 99501 Phone: 907-339-7125 Email: msinger@schwabe.com lbaxter@schwabe.com

APPELLEE	
3. Party	Attorney
Matanuska-Susitna Borough and Michael Brown	Stacey C. Stone (ABA #1005030) Gregory Stein (ABA #1011095) Holmes Weddle & Barcott, P.C. 701 W 8 th Avenue, Suite 700 Anchorage, AK 99501 Phone: 907-274-0666 Fax: 907-277-4657 Email: ssone@hwb-law.com gstein@hwb-law.com
APPELLEE	
4. Party	Attorney
Felisa Wilson, George Martinez, and Yarrow Silvers	Holly C. Wells (ABA #0511113) Mara E. Michaletz (ABA #0803007) William D. Falsey (ABA #0511099) Zoe A. Danner (ABA #1911094) Birch Horton Bittner & Cherot 510 L Street, Suite 700 Anchorage, AK 99501 Phone: 907-276-2550 Fax: 907-276-3680 Email: hwells@bhb.com mmichaletz@bhb.com wfalsey@bhb.com zdanner@bhb.com
APPELLEE	
5. Party	Attorney
Calista Corporation, William Naneng, and Harley Sundown	Eva R. Gardner (ABA #1305017) Michael S. Schechter (ABA #1405044) Benjamin J. Farkash (ABA #1911095) Ashburn & Mason, P.C. 1227 West 9 th Avenue, Suite 200 Anchorage, AK 99501 Phone: 907-276-4331 Fax: 907-277-8235 Email: eva@anchorlaw.com mike@anchorlaw.com ben@anchorlaw.com

APPELLEE	
6. Party	Attorney
Doyon, Limited; Tanana Chiefs Conference; Fairbanks Native Association; Ahtna, Inc.; Sealaska; Donald Charlie, Sr.; Rhonda Pitka; Cherise Beatus; and Gordon Carlson	Nathaniel Amdur-Clark (ABA #1411111) Whitney A. Leonard (ABA #1711064) Sonosky, Chambers, Sachse, Miller & Monkman, LLP 725 East Fireweed Lane, Suite 420 Anchorage, AK 99503 Phone: 907-258-6377 Fax: 907-272-8332 Email: nathaniel@sonosky.net whitney@sonosky.net
APPELLEE	
7. Party	Attorney
City of Valdez and Mark Detter	Robin O. Brena (ABA #8410089) Jake W. Staser (ABA #1111089) Laura S. Gould (ABA #0310042) Jon S. Wakeland (ABA #0911066) Brena, Bell & Walker, P.C. 810 N Street, Suite 100 Anchorage, AK 99501 Phone: (907) 258-2000 Fax: (907) 258-2001 Email: rbrena@brenalaw.com jstaser@brenalaw.com lgould@brenalaw.com jwakeland@brenalaw.com
APPELLEE	
8. Party	Attorney
State of Alaska	Thomas. S. Flynn (ABA #8410089) State of Alaska Department of Law 1032 W. 4 th Avenue, Suite 200 Anchorage, AK 99501 Phone: 907-269-5100 Email: thomas.flynn@alaska.gov

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) Supreme Ct. No. S-_____
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2021 Redistricting Plan.) Superior Court Case Nos.
) 3AN-21-08869 CI
) 3JU-21-00080 CI
_____)

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2022, I served by email, upon counsel listed below, the Municipality of Skagway Borough and Brad Ryan's (1) Notice of Appeal, (2) Statement of Points on Appeal, (3) Docketing Statement with the Findings of Fact and Conclusions of Law from which this appeal is taken, and (4) this Certificate:

<u>Attorneys for Alaska Redistricting Board</u> Matt Singer, Esq. Lee Baxter, Esq. Schwabe, Williamson & Wyatt Email: msinger@schwabe.com lbaxter@schwabe.com	<u>Attorneys for Intervenor Doyon Limited et al.</u> Nathaniel Amdur-Clark, Esq. Whitney A. Leonard, Esq. Sonosky, Chambers, Sachse, Miller & Monkman, LLP Email: nathaniel@sonosky.net whitney@sonosky.net
<u>Attorneys for Calista Corporation, William Naneng, and Harley Sundown</u> Eva R. Gardner, Esq. Michael S. Schechter, Esq. Benjamin J. Farkash, Esq. Ashburn & Mason, P.C. Email: eva@anchorlaw.com mike@anchorlaw.com ben@anchorlaw.com	<u>Attorneys for Matanuska-Susitna Borough and Michael Brown</u> Stacey C. Stone, Esq. Gregory Stein, Esq. Holmes Weddle & Barcott, P.C. Email: sstone@hwb-law.com gstein@hwb-law.com
<u>Attorneys for Felisa Wilson, George Martinez, and Yarrow Silvers</u> Holly C. Wells, Esq. Mara E. Michaletz, Esq. William D. Falsey, Esq. Zoe A. Danner, Esq. Birch Horton Bittner & Cherot Email: hwells@bhb.com mmichaletz@bhb.com wfalsey@bhb.com zdanner@bhb.com	<u>Attorney for the State of Alaska</u> Thomas. S. Flynn, Esq. Office of the Attorney General State of Alaska Department of Law Email: thomas.flynn@alaska.gov Kevin Meyer, Lieutenant Governor Office of the Lieutenant Governor Email: kevin.meyer@alaska.gov

**BRENA, BELL &
WALKER, P.C.**
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907) 258-2000
Fax: (907) 258-2001
www.brenalaw.com

DATED this 17th day of February, 2022.

//s// Melody Nardin

Melody Nardin, Paralegal
Brena, Bell & Walker, P.C.
810 N Street, Suite 100
Anchorage, Alaska 99501
Phone: (907) 258-2000

**BRENA, BELL &
WALKER, P.C.**
810 N Street, Suite 100
Anchorage, AK 99501
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